

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 05-00245-01-CR-W-HFS
)	
ALBERT PUPI,)	
)	
Defendant.)	

ORDER

For the reasons stated, I agree with defendant that the court has lost jurisdiction and will therefore dismiss probation revocation proceedings.

Defendant's probation was scheduled to expire on August 1, 2005. On July 11, however, defendant signed an agreement to extend his probation term by one year. The next day I initialed my concurrence with the recommendation of the Probation Officer for a year's extension of probation. To the best of my recollection the recommendation did not accompany a proposed order and I did not initiate such an order. Therefore, probation expired as scheduled.

The Government's brief recites the filing of a written order dated August 3, 2005, extending probation. While I have no independent recollection of such an order, it is obvious that any such filing was too late.

I see no alternative to concluding that there is no jurisdiction to proceed with revocation proceedings.*

*I would suppose, however, that the Government might argue that defendant is estopped or is bound by a written waiver, and cannot now contest the extension he agreed to. Something comparable seems to have occurred in the Strada litigation that arose before Judge Becker in the 1970s. The Government does not argue or support a waiver contention, however, and I will not

The Government does cite authority that where revocation proceedings are instituted prior to expiration of a probationary period or period of supervised release they can be completed thereafter. The revocation proceedings here, however, have been instituted quite a few weeks after expiration of probation.

Defendant's motion to dismiss (ECF doc. 8) is GRANTED. Probation revocation proceedings are therefore dismissed. SO ORDERED.

/s/ Howard F. Sachs
HOWARD F. SACHS
UNITED STATES DISTRICT JUDGE

October 7, 2005

Kansas City, Missouri

try to develop it for the prosecution.